

REMARKS:Claim Status

Claims 1-7, 9-33, 60-76 and 79-86 are pending in the application. As of this Response to Office Action the claim status is:

Previously Presented	1-7, 9-17, 19-32, 60-76 and 79-86
Original	18 and 78
Canceled	8, 33-59 and 77

Claim Rejections35 U.S.C. 102(b)

The Office Action rejected claims 1-7, 9-15, 17-31, 60-71, 73-76, 78-82, 84-86 under 35 U.S.C. 102(b) as being allegedly anticipated by European Patent Application EP 0 491 367 A2 to Richard E. Batchelor (hereinafter Batchelor), published 06/24/1992. Applicants respectfully traverse and request allowance of the above claims.

*Claim 1*

The text of claim 1 recites (in relevant part) “processing the plurality of data nodes solely within non persistent storage, without requiring that information indicative of the e-mails be written to and then read from persistent storage during the processing of the data nodes wherein said processing comprises, for each respective data node.” The Office Action alleges that Batchelor discloses the cited text of claim 1. Applicant’s respectfully traverse.

The recited text of claim 1 specifically recites “without requiring that information indicative of the e-mails be written to and then read from persistent storage during the processing.” Batchelor teaches against this text. Specifically

Batchelor discloses “these files and data structures and queue are maintained on disk rather than in memory to provide additional security against data loss in the event of a system failure” (page 14 lines 52-53).

Here, the disclosure of Batchelor seems to use the problematic technique that the text of claim 1 is trying to solve. By maintaining the queues on disk rather than in memory the disclosure of Batchelor does not operate as the recited text of claim 1. Further, Batchelor suggests that having the queues on disk rather than in memory is advantageous because, in the event of a system failure, the queue will be saved to disk. This is opposite the recited text of claim 1.

Batchelor also does not disclose “processing the plurality of data nodes” as recited in the text of claim 1. Batchelor discloses “The REQs 22 are subsequently read from queue 16 by queue manager 18 and the messages transmitted to the appropriate destinations, or recipients, referred to as nodes.” (page 3, lines 44-45). Here, Batchelor discloses that a node is a destination or recipient. Batchelor also discloses that a nodes is where the REQ is sent (page 6, line 37).

It is clear from the recited text of claim 1 that a node in Batchelor and a “data node” in the text of claim 1 are different because the text of claim 1 recites “processing the plurality of data nodes” which would not be possible if a data node was a destination as disclosed by Batchelor. Destinations are not processed.

At least for the above mentioned reasons the disclosure of Batchelor teaches away from the text of claim 1, both in its definition of a “data node” and in its use of persistent memory. Because Batchelor teaches away from the text of claim 1, Batchelor cannot anticipate the recited text of claim 1 and therefore may not form the basis for a 35 U.S.C. §102 rejection of claim 1.

Claim 1 is allowable and applicants request allowance of claim 1.

*Claims 2-7 and 9-32*

Claims 2-7 and 9-32 are ultimately dependent from claim 1 and include all the limitations of claim 1. Since claim 1 is allowable, all the claims dependent from claim 1 are also allowable. Applicants respectfully request allowance of claims 2-7 and 9-32.

*Claim 60*

The text of claim 60 recites “asynchronously looking up, during said sending step, DNS information for a domain name using an asynchronous DNS resolver that operates from an offline DNS cache that is periodically updated, for a different destination in said plurality of destinations, to be sent at a future time.” Batchelor does not disclose the recited text of claim 1 and therefore can not form a basis of a 35 U.S.C. §102 rejection of claim 6.

It appears that Batchelor discloses requests having both a lower priority and a higher priority, however, Batchelor does not disclose “asynchronously looking up, during said sending step, DNS information.” Batchelor does not disclose asynchronous operations except to the effect of operating the queue handler which is tasked with transmitting the message to different nodes (page 3, line 44-45). Since the queue handler transmit messages and does not asynchronously look up “during said sending step, DNS information”, Batchelor does not disclose the recited text of claim 60.

Because Batchelor does not disclose the recited text of claim 60 it cannot form the basis for a 35 U.S.C. §102 rejection of claim 60. Claim 60 is allowable ad applicants request allowance of claim 60.

*Claims 61-72*

Claims 61-72 are ultimately dependent from claim 60 and include all the limitations of claim 60. Since claim 60 is allowable, all the claims dependent from claim 60 are also allowable. Applicants respectfully request allowance of claims 61-72.

*Claim 73*

The text of claim 73 recites “asynchronously looking up DNS information for a domain name using an asynchronous DNS resolver that operates from a offline DNS cache.” Batchelor does not disclose asynchronous operations except to the effect of operating the queue handler which is tasked with transmitting the message to different nodes (page 3, line 44-45). Since the queue handler transmits messages and does not asynchronously look up “during said sending step, DNS information”, the disclosure of Batchelor does not disclose the recited text of claim 73.

Claim 73 is allowable and applicants request allowance of claim 73.

*Claims 74-83*

Claim 74-83 are ultimately dependent from claim 73 and include all the limitations of claim 73. Since claim 73 is allowable, all the claims dependent from claim 73 are also allowable. Applicants respectfully request allowance of claims 74-83.

*Claim 84*

The text of claim 84 recites “means for creating a data node for each e-mail in said plurality of e-mails, wherein each data node includes a pointer to the corresponding e-mail in persistent storage; means for processing the plurality of data nodes solely within non persistent storage.” As discussed above, the disclosure of Batchelor does not anticipate the text of claim 84 because it teaches away from the use of non persistent storage and because Batchelor's nodes are not the same nodes as the text of claim 84.

Claim 84 is allowable and applicant's request allowance of claim 84.

*Claim 85*

The text of claim 85 recites “means for asynchronously looking up, during said sending, DNS information for a domain name using an asynchronous DNS resolver that operates from an offline DNS cache.” As discussed above, Batchelor does not disclose the recited text of claim 85. Batchelor does not disclose asynchronous operations except to the effect of operating the queue handler which is tasked with transmitting the message to different nodes (page 3, line 44-45). Since the queue handler transmits messages and does not asynchronously look up “during said sending step, DNS information”, the disclosure of Batchelor does not disclose the recited text of claim 85.

Claim 85 is allowable and applicant's request allowance of claim 85.

*Claim 86*

The text of claim 86 recites “asynchronously looking up DNS information for a domain name using an asynchronous DNS resolver that operates from an offline DNS cache.” As discussed above, Batchelor does not disclose the recited text of claim 86. Batchelor does not disclose asynchronous operations except to the effect of operating the queue handler which is tasked with transmitting the message to different nodes (page 3, line 44-45). Since the queue handler transmit messages and does not asynchronously look up , during said sending step, DNS information, the disclosure of Batchelor does not disclose the recited text of claim 86.

Claim 86 is allowable and applicant's request allowance of claim 86.

35 U.S.C. 103(a)

Claims 16, 32, 72 and 83 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Batchelor in view of US 2002/0143885 to Ross, JR (hereinafter Ross). Applicants traverse and request allowance of claims 16, 32, 72 and 83.

The claims 16, 32, 72 and 83 are all dependent claims and as such include all the limitations of the claims from which they depend. Since the claims from which they depend are allowable, claim 16, 32, 72 and 83 are also allowable.

*Claim 16*

In addition, the text of claim 16 recites "maintaining a log representing information relating to a number of e-mails in said plurality of e-mails which have been processed; and comparing contents of said log with licensing information, to determine if the number of e-mails that has been processed exceeds a licensed number." Ross does not disclose the recited text of claim 16.

The Office Action alleges that of Ross discloses the recited text of claim 16; however, Ross does not disclose maintaining a log or comparing contents of said log with licensing information, to determine if the number of e-mails that has been processed exceeds a licensed number. Because Ross does not disclose the cited text of claim 16, Ross cannot be used as a basis for a 35 U.S.C. §103(a) rejection of claim 16.

Claim 16 is allowable and applicants request allowance of claim 16.

Claims 32, 72 and 83

The texts of claims 32, 72 and 83 each recite the use of a log and of comparing as in claim 16. As discussed above, Ross does not disclose maintaining a

log or comparing contents of said log with licensing information and as such cannot form the basis for a 35 U.S.C. §103(a) rejection of claims 32, 72 and 83.

Claims 32, 72 and 83 are allowable and applicants request allowance of claim 32, 72 and 83.

No Admission

Applicant's decision not to argue each of the dependent claims separately is not an admission that the subject matter of those claims is disclosed or suggested by the applied art.

Closing

In view of the foregoing amendments and remarks, the entire application is believed to be in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

Applicants' undersigned attorney can be reached at (650) 947-0700. All correspondence should continue to be directed to the address indicated below.

Respectfully submitted,

/Peter Tormey/  
Peter Tormey  
Reg. No. 57,761

Dated: December 23, 2008

Swernofsky Law Group PC  
P.O. Box 390013  
Mountain View, CA 94039-0013  
(650) 947-0700